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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,393	08/23/2005	Thomas Bertin-Mouroit	265017US6PCT	3870
22850 7590 05/13/2009 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER PERRY, ANTHONY T	
			ART UNIT	PAPER NUMBER
			2879	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/523,393	<b>Applicant(s)</b> BERTIN-MOUROT ET AL.	
	<b>Examiner</b> ANTHONY T. PERRY	<b>Art Unit</b> 2879	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 25-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION*****Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/17/09 has been entered.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25-29, 31-38, 43-46, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park (US 2002/0079826).

Regarding claim 25, Park discloses a flat lamp in comprising: at least two glass substrates (31 and 31a) kept mutually parallel and defining in an internal gas-filled space, each glass substrate having an internal surface facing in a direction of the internal space and an external surface facing in a direction away from the internal space; two electrodes (33 and 33a), a first (33a) of two electrodes associated with a first one (31a) of the glass substrates, a second (33) of two electrodes associated with a second one (31) of the glass substrates, in which an internal face of at least one substrate turned toward the internal space is coated with a phosphor material (39 and 39a), wherein at least one of the electrodes is covered with at least one electrical insulation

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(35 and 35a) that may be formed by at least one of the glass substrates or be associated with at least one of the glass substrates (for example, see Fig. 3).

It is noted that the applicant's specific location of the two electrodes being on the external surface of side of the substrates (away from the internal surface), does not solve any of the stated problems or yield any unexpected result that is not within the scope of the teachings applied. Furthermore, it has been held that rearranging of parts of an invention involves only routine skills in the art. Therefore it is considered to be a matter of choice, which a person of ordinary skill in the art would have found obvious to select any arrangement (electrode on the internal surface of the substrates covered with the insulation material or the electrodes on the external surface side surface of the substrates covered with the insulation material) as long as the electrodes are sandwiched by an insulating material, such that they are protected and not exposed to the internal gas-filled space as well as outside elements, since rearrangement of parts of an invention is considered within the skills of the art.

Regarding claim 26, Park discloses the flat lamp, wherein at least one electrode is affixed to the surface of the external face of the substrate with which it is associated and is covered with at least one electrical insulation, the electrode being incorporated into the surface of the glass substrate or of the electrical insulation (for example, see Fig. 3).

Regarding claim 27, Park discloses the flat lamp, wherein at least one electrode is incorporated into the electrical insulation, either within its very thickness or on a surface (for example, see Fig. 3).

Regarding claim 28, Park discloses the lamp as claimed in claim 26, but does not specifically recite what type of dielectric material makes up the electrical insulation. However,

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glass and transparent plastic, such as, polyvinyl butyral (PVB), ethylene/vinyl acetate (EVA), or polyethylene terephthalate (PET) are known dielectric materials used for covering electrodes in order to provide electrical insulation. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Thus, it would have been obvious to one having ordinary skills in the art at the time the invention was made to have reasonably contemplated using glass or of a transparent plastic of one of: polyvinyl butyral (PVB), ethylene/vinyl acetate (EVA), or polyethylene terephthalate (PET), as the electrical insulation, since the selection of known materials for a known purpose is within the skill of the art.

Regarding claim 29, Park discloses the flat lamp, wherein the electrical insulation associated with the electrode is assembled with one or more other additional electrical insulations (35 and 35a).

Regarding claim 31, Park discloses the flat lamp, wherein the electrical insulation a constitutes a sheet exhibiting an optical effect (for example, see Fig. 3).

Regarding claim 32, Park discloses the flat lamp, wherein the electrodes (33 and 33a) are continuous, conducting and transparent coatings, each located on an external face side of a substrate and covering at least part of facing surfaces of the substrates (for example, see Fig. 3).

Regarding claim 33, Park discloses the flat lamp, wherein the electrodes cover all of the external faces of the glass substrates (for example, see Fig. 3).

Regarding claim 34, Park discloses the flat lamp, wherein the continuous coatings (33a and 33) are in the form of an array of parallel band a non-conducting space between two adjacent bands, having a width greater than the width of the bands (for example, see Fig. 3). Park does

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not specifically disclose that the continuous coatings have a width between 3 and 15 mm, and, the coatings deposited on the two substrates being offset by 180° to prevent two opposed conducting bands of the two substrates from facing each other.

It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an appropriate range for the widths of the bands based on the lamps specific function or use, since optimization of workable ranges is considered within the skill of the art.

Park shows a lamp having the coatings on the two substrates being offset by 180° so that two opposed conducting bands (13a and 13) of the two substrates do not face each other (for example, see Fig. 2). It is noted that the applicant's specific relation of the two opposed bands being offset so that they do not face each other, does not solve any of the stated problems or yield any unexpected result that is not within the scope of the teachings applied. Therefore it is considered to be a matter of choice, which a person of ordinary skill in the art would have found obvious to select any relational placement (facing one another as shown in Fig. 3 or offset so as not face one another as shown in Fig. 2) of opposing bands.

Regarding claim 35, Park discloses the flat lamp, wherein the electrodes are formed from a metal oxide having electronic vacancies (for example, see paragraph 0050).

Regarding claim 36, Park discloses the flat lamp, wherein at least one of the two electrodes is an integrated metal grid (33 and 33a), where appropriate inserted in between two plastic sheets, or the electrode is in a form of a layer (33 and 33a) deposited on and incorporated into a plastic film (for example, see Fig. 3).

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Regarding claim 37, Park discloses the flat lamp, wherein at least part of the internal face of at least one of the two substrates is coated with a phosphor material (39 and 39a).

Regarding claim 38, Park discloses the lamp as claimed in claim 37, wherein the phosphor is selected to determine a color of illumination (for example, see paragraph 0052).

Regarding claim 43, Park does not specifically recite the gas pressure in the internal space being around 0.05 to 1 bar. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an appropriate range for the gas pressure of the lamp, since optimization of workable ranges is considered within the skill of the art.

Regarding claim 44, Park teaches a hole (not shown) in the lamp device that is sealed with a glass material (obstructed by a seal) after providing a gas within the discharge space (for example, see paragraph 0077).

Park does not specifically state that the hole is in one of the substrates. However, it is noted that the applicant's specific placement of the hole, does not solve any of the stated problems or yield any unexpected result that is not within the scope of the teachings applied. Therefore, it is considered to be a matter of choice, which a person of ordinary skill in the art would have found obvious to select any outer member of the flat lamp for providing the hole, as long as the hole is capable of providing a means for introducing gas into the envelope, and that can be sealed thereafter.

The Examiner notes that the claim limitation that the "hole is drilled" is drawn to a process of manufacturing which is incidental to the claimed apparatus. It is well established that

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a claimed apparatus cannot be distinguished over the prior art by a process limitation.

Consequently, absent a showing of an unobvious difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Regarding claim 45, Park the contour of the glass substrates is polygonal, concave or convex, or curved with a constant or variable radius of curvature (for example, see Fig. 3)..

Regarding claim 46, Park discloses the lamp having two illuminating faces (for example, see Fig. 3).

Regarding claim 48, Park discloses an application of the flat lamp in the production of architectural or decorative elements that illuminate and/or have a display function (for example, see Fig. 3).

Claims 30, 39, 40, 41-42, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park (US 2002/0079826) in view of Eliasson et al. (US 4,983,881).

Regarding claim 30, Park does not specifically teach the at least one additional electrical insulation is formed by another glass substrate that is laminated to at least one glass substrate by an intermediate film that can make the two substrates adhere to each other.

However, Eliasson discloses a flat lamp with an intermediate film (3) that allows the two substrates to adhere to each other. Eliasson teaches that by including the intermediate film, separation is maintained between two substrates. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have at least one additional electrical insulation formed by another glass substrate that is laminated to at least one glass

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substrate by an intermediate film that can make the two substrates adhere to each other, as taught by Eliasson, in order to maintain appropriate separation between the two substrates.

Regarding claim 39, Park does not specifically teach spacers, made of a non-conducting material, placed between the two glass substrates. Eliasson teaches a lamp with a spacer (3) between two substrates (1 and 2) to maintain separation between the two substrates.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide insulating spacers placed between the two glass substrates in order to maintain appropriate separation between the two substrates, as taught by Eliasson.

Regarding claim 40, the combined invention of Park and Eliasson does not specifically teach the separation between the two substrates being around 0.3 to 5 mm. However, it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an appropriate range for the distance separating the two substrates (discharge space), since optimization of workable ranges is considered within the skill of the art.

Regarding claim 41, the combined invention of Park and Eliasson does not specifically teach the spacers being made of glass. However, it is well known in the art to form the spacers in such lamps from a glass material. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Thus, it would have been obvious to one having ordinary skills in the art at the time the invention was made to have used a glass material for the spacers, since the selection of known materials for a known purpose is within the skill of the art.

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Regarding claim 42, the combined invention of Park and Eliasson disclose the lamp wherein a lateral surface of the spacers is coated with a phosphor material (for example, see Fig. 3).

Regarding claim 47, Park teaches a process for manufacturing a lamp as claimed in claim 25, comprising: optionally, depositing at least one electrode (33 and 33a) on one of the glass substrates (31 and 31a); screen-printing phosphor (39) on at least one of the glass substrates; sealing an internal space by a peripheral sealing material; replacing atmosphere contained in the internal space, by the hole, with plasma gas; and obstructing the hole by a seal; optionally, joining at least one first electrical insulation (35) to at least one glass substrate, the electrical insulation configured to cover or to incorporate, internally or on a surface, the electrode (33) with which one of the faces of the substrate to be associated, or configured to cover the electrode that is associated with a second electrical insulation that is joined to the first electrical insulation; and joining the substrates together to be parallel (for example, see Fig. 3 and paragraph 0077).

It is noted that the applicant's specific location of the two electrodes being on the external surface of side of the substrates (away from the internal surface), does not solve any of the stated problems or yield any unexpected result that is not within the scope of the teachings applied. Furthermore, it has been held that rearranging of parts of an invention involves only routine skills in the art. Therefore it is considered to be a matter of choice, which a person of ordinary skill in the art would have found obvious to select any arrangement (electrode on the internal surface of the substrates covered with the insulation material or the electrodes on the external surface side surface of the substrates covered with the insulation material) as long as the electrodes are sandwiched by an insulating material, such that they are protected and not exposed

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to the internal gas-filled space as well as outside elements, since rearrangement of parts of an invention is considered within the skills of the art.

Park does not specifically teach depositing spacers on one of the substrates. However, Eliasson discloses depositing spacers in order to maintain an appropriate spacing between the two substrates. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide spacers between the two substrates in order to maintain an appropriate separation between them.

Park and Eliasson do not specifically teach the hole being formed by drilling through a thickness of one of the substrates. However, it is noted that the applicant's specific method of drilling, does not solve any of the stated problems or yield any unexpected result that is not within the scope of the teachings applied. Therefore, it is considered to be a matter of choice, which a person of ordinary skill in the art would have found obvious to select any outer member of the flat lamp for providing the hole, as long as the hole is capable of providing a means for introducing gas into the envelope, and that it can be sealed thereafter.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Anthony Perry* whose telephone number is **(571) 272-2459**. The examiner can normally be reached between the hours of 9:00AM to 5:30PM Monday thru Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel, can be reached on (571) 272-2457. **The fax phone number for this Group is (571) 273-8300.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Anthony Perry/

Anthony Perry  
Patent Examiner  
Art Unit 2879

/NIMESHKUMAR D. PATEL/  
Supervisory Patent Examiner, Art Unit 2879